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8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**

10 XPOSURE PHOTO AGENCY INC.,

11 *Plaintiff,*

12 v.

13 MERUELO MEDIA, LLC,

14 *Defendant.*
15

Case No.: 2:23-cv-10847

**COMPLAINT FOR COPYRIGHT
INFRINGEMENT**

Jury Trial Demanded

16
17 Plaintiff Xposure Photo Agency Inc., for its Complaint against
18 Defendant Meruelo Media, LLC, alleges as follows:

19 **JURISDICTION**

20 1. This action arises under the Copyright Act of 1976, Title 17 U.S.C.
21 § 101 et seq. This Court therefore has jurisdiction over the subject matter of
22 this action under 28 U.S.C. § 1331 (federal question) and § 1338 (copyright).

23 **PARTIES**

24 *Plaintiff Xposure*

25 2. Plaintiff Xposure is an entity organized and existing under the
26 laws of the State of California with its principal place of business in Beverly
27 Hills, California.
28

3. Xposure is a global premier celebrity news and photo agency that provides the world's news outlets with real-time content from top photographers. Xposure also maintains a library of photographs on a diverse range of subjects including celebrities, music, sports, fashion, and royalty.

4. Xposure licenses its photographs to leading magazines, newspapers, and editorial clients, throughout the world, including in the United States and in California.

5. Xposure conducts business as a syndicator of photos and photo features of popular content. The business model is predicated on licensing the use of work to many different licensees, each of which pays a fee to publish.

Defendant

6. Defendant Meruelo Media is a corporation organized under the laws of the State of California.

7. On information and belief, Meruelo Media owns, operates, or is responsible for the content of the account @Power106LA on the social media platform known as X (formerly known as Twitter).

8. On information and belief, Meruelo Media owns, operates, or is responsible for the content of the account @Power106LA on the social media platform Instagram.

Personal Jurisdiction and Venue

9. On information and belief, defendant Meruelo Media is organized under the laws of the State of California and has its principal place of business in Los Angeles, California.

10. This Court has personal jurisdiction over Meruelo Media because, being organized under California law and having its principal place of business in this State and judicial district, Meruelo Media can be said to be “at home” in this State and judicial district.

1 11. Venue in this judicial district is proper under 28 U.S.C. § 1400(a).

2 **BACKGROUND FACTS**

3 *The Copyrighted Photographs*

4 12. Xposure is the owner and copyright holder of three photographic
5 images (the “Images”) depicting Rihanna on vacation with A\$AP Rocky. The
6 Images were registered with the U.S. Copyright Office as Reg. No.
7 VA 2-239-746 (eff. Jan. 9, 2021).

8 13. Xposure never licensed the Images to defendant. Nevertheless,
9 defendant used the Images without authorization or permission to do so.

10 14. Specifically, on December 29, 2020, defendant or its agents copied
11 the Images from Internet sources – on information and belief including
12 legitimate licensees of Xposure – stored the Images on its servers, and
13 displayed the Images on one or both of the social media accounts
14 @Power106LA on Instagram and @Power106LA on X.

15 *Defendant’s Infringements Harmed Xposure*

16 15. The Images are creative, distinctive, and – as evidenced by
17 defendant’s use and misappropriation of them – valuable. Because of the
18 Images’ quality, visual appeal, and celebrity subject matter, Xposure stood to
19 gain revenue from licensing them.

20 16. But defendant’s unauthorized use of the Images harmed the
21 existing and future market for the Images. Defendant’s social media posts
22 made the Images immediately available to its followers and to the public,
23 including consumers of entertainment and fashion news – and especially
24 news and images of the celebrity subjects of the Images – who would
25 otherwise be interested in viewing licensed versions of the Images in the
26 magazines, newspapers, and online publications that are Xposure’s
27 customers.
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1 contained in the preceding paragraphs of this Complaint as if fully set forth
2 here.

3 22. Plaintiff is the author and or/copyright owner of the protected
4 Images named above in this Complaint.

5 23. Defendant has reproduced, displayed, or otherwise copied the
6 Images without plaintiff's authorization or license.

7 24. The foregoing acts of defendant infringed upon the exclusive
8 rights granted to copyright owners under 17 U.S.C. § 106 to display,
9 reproduce, and distribute their work to the public. Such actions and conduct
10 constitute copyright infringement in violation of 17 U.S.C. §§ 501 et seq.

11 25. Plaintiff has complied in all respects with 17 U.S.C §§ 101 et seq.
12 and secured and registered the exclusive rights and privileges in and to the
13 copyrights of the above-referenced works in accordance with 17 U.S.C § 408.

14 26. Plaintiff suffered damages as a result of defendant's unauthorized
15 use of the Images.

16 27. Having timely registered its copyright in the Images, plaintiff is
17 entitled to elect statutory damages under 17 U.S.C. § 412 and § 504(c), in an
18 amount of not less than \$750 or more than \$30,000 per infringement of each
19 work registered.

20 28. Plaintiff alleges, on information and belief, that that defendant's
21 actions were intentional or in reckless disregard of plaintiff's copyrights, and
22 that such actions support an award of enhanced statutory damages for willful
23 infringement under the Copyright Act, 17 U.S.C. § 504(c)(2), in the sum of up
24 to \$150,000 per infringed work.

25 29. In the alternative, plaintiff is entitled to recovery of its actual
26 damages and defendant's profits attributable to the infringement of the
27 Images, under 17 U.S.C. § 504(b).

28

30. Within the time permitted by law, plaintiff will make its election between actual damages and profit disgorgement, or statutory damages.

31. Plaintiff is also entitled to a discretionary award of attorney fees under 17 U.S.C. § 412 and § 505.

PRAYER FOR RELIEF

WHEREFORE, plaintiff requests the following:

A. For a preliminary and permanent injunction against defendant and anyone working in concert with them from further copying or displaying the Images;

B. For an order requiring defendant to account to plaintiff for their profits and any damages sustained by plaintiff arising from the acts of infringement;

C. As permitted under 17 U.S.C. § 503, for impoundment of all copies of the Images used in violation of plaintiffs' copyrights—including digital copies or any other means by which they could be used again by defendant without plaintiff's authorization—as well as all related records and documents;

D. For actual damages and all profits derived from the unauthorized use of the Images or, where applicable and at plaintiff's election, statutory damages;

E. For an award of pre-judgment interest as allowed by law;

F. For reasonable attorney fees;

G. For court costs, expert witness fees, and all other costs authorized under law;

H. For such other and further relief as the Court deems just and proper.

JURY TRIAL DEMAND

Plaintiff demands a trial by jury of all issues permitted by law.

Dated: December 28, 2023 Respectfully submitted,

PERKOWSKI LEGAL, PC

By /s/ Peter Perkowski

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Peter E. Perkowski

Attorneys for Plaintiff
XPOSURE PHOTO AGENCY INC.